



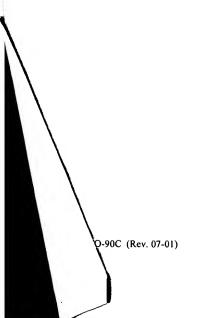


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APPLICATION NO. 09/910,720		. F	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
			07/24/2001	James P. Hearn	8932-177		
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	1667 K ST SUITE 100	0		RAMANA, ANURADHA			
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					DATE MAILED: 09/30/2003	/0	

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary Examiner			Application No.	Applicant(s)	— <u> </u>					
ASHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILLING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILLING DATE OF THIS COMMUNICATION. Eatherstors or the map to available under the provision of 3 CFR 1.136(a), in no event, however, may a reply be timely filed Eatherstors or the map to available under the provision of 3 CFR 1.136(a), in no event, however, may a reply be timely filed Eatherstors or the map to available under the provision of 3 CFR 1.136(a), in no event, however, may a reply be timely filed Eatherstors (SK (e)ACHTST form the mailing date of this communication, in the provision of reply is pecified above, the maximum statutory period was (SK (e)ACHTST form the mailing date of this communication, even if firstly filed, may refuse a my earned patient term adjustment. See 37 CFR 1.704(b). Status 1) Seponsive to communication(s) filed on 6/30/023. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-26 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5) Claim(s) 1-2.26 is/are allowed. 6) Claim(s) 1-3.15-16, 27-41 and 43-49 is/are rejected. 7) Claim(s) 1-3.15-16, 27-41 and 43-49 is/are rejected. 7) Claim(s) 1-3.15-16, 27-41 and 43-49 is/are rejected. 7) The proposed drawing side on 30 June 2003 is/are: a \text{\	•	•	09/910,720	HEARN ET AL.						
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Ederacions or time may be available under the provisions of 3 CPR 1.135(a). In no event, however, may a reply be timely filed with 40 (b) MONTH'S from the mailing date of this communication. If IN Deproids or reply is specified above, the maximum statutory period valley and valled up the 100 (b) MONTH'S from the mailing date of this communication. Failure to reply veilible the set or extended period for reply veil, by statutory application to become ARANDONED (38 U.S.C. § 133). Alter the provision of the form the mailing date of this communication, even if timely filed, may reduce any Status. 1) □ Responsive to communication(s) filed on 6/30/03. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is Final period to the period of this communication. 4) □ Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-26 is/are pending in the application. 4a) □ Of the above claim(s) is/are allowed. 5) □ Claim(s) 1-26 is/are allowed. 6) □ Claim(s) 1-2.3 is/are allowed. 7) □ Claim(s) 1-2.6 are subject to restriction and/or election requirement. Application Papers 9) □ The drawing(s) filed on 30 June 2003 is/are: a □ accepted or b □ objected to by the Examiner. 10) □ The drawing(s) filed on 30 June 2003 is/are: a □ accepted or b □ objected to by the Examiner. Application Papers Application with a provided trawings are required in reply to this Office action. 12) □ The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. § 119 and 120 13) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ Certified copie	1	Office Action Summary	Examiner	Art Unit						
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1) Notice of References Cited (RTO 802)		-	, ,							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other:	2) Notic	_ , , , , , , , , , , , , , , , , , , ,	5) Notice of Inform	nary (PTO-413) Paper No(s) nal Patent Application (PTO-152						

Application/Control Number: 09/910,720

Art Unit: 3732

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-16 in Paper No. 8 filed on June 30, 2003 is acknowledged. Accordingly, this office action addresses only claims 1-16.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-10, 15, 27-36, 39-41, 43, 45-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Herrington et al. (US 6,379,363).

Herrington et al. disclose a cranial clamp having a smooth base or first clamping member 12, a head 30 disposed proximate first clamping member with a bore, an extension member or tube 16 placed in the bore of head 30, a smooth cap or second clamping member 14 and an integrally formed stop member or crimp or ridge or twisted portion or flared portion 34 which limits the movement of clamping member 14 on extension member 16 (Figures 1 and 21e, col. 4, lines 12-20 and lines 27-58).

Regarding claims 1 and 2, the method by which an apparatus is made, "provided by mechanical deformation of the extension member" is not given any patentable weight in an apparatus claim (*In re Brown*, 459 F.2d 531, 535, 173 USPQ 685, 688 (CCPA 1972)).

Regarding claims 4 and 30, Herrington et al. also disclose second clamping member as having radial cutouts 54 (col. 4, lines 59-64).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11-13, 16, 37-38 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington et al.

Although Herrington et al. do not disclose that extension member 16 is a ribbon or a longitudinal member with a rectangular cross section, it would have been obvious to one of ordinary skill in the art to substitute a ribbon for the extension member wherein so doing would amount to mere substitution of one functionally equivalent structure for another within the same art, namely a structure capable of being sheared off against a suitable surface, and the selection of any of these structures would work equally well in the claimed device.

Regarding claims 16 and 44, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a fastener hole in second clamping member for securing the clamping member since it is well known in the art to utilize fasteners for the purpose of securing one member to another.

Response to Arguments

Applicant's arguments with respect to claims 1 and 5-10 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

The indicated allowability of claims 2-4 and 11-16 is withdrawn in view of the new rejections made in this office action.

Claims 14 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (703) 306-4035. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

AR Anuadha kamara September 22, 2003

SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700